

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 21464WO	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/NL2004/000086	International filing date (day/month/year) 06.02.2004	Priority date (day/month/year) 07.02.2003
International Patent Classification (IPC) or national classification and IPC A61B17/82		
Applicant DSM IP ASSETS B.V. ET AL.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau)</i> a total of sheets, as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of Invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 		
Date of submission of the demand 19.07.2004	Date of completion of this report 02.02.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Macaire, S Telephone No. +31 70 340-3115	



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-9 as originally filed

Claims, Numbers

1-14 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

- The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
- This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
 - the entire international application,
 - claims Nos. 6-8
 - because:
 - the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):
 - the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
 - the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 - no international search report has been established for the said claims Nos. 6-8
 - the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
 - the written form has not been furnished does not comply with the standard
 - the computer readable form has not been furnished does not comply with the standard
 - the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
 - See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-5,9,12
	No: Claims	10-11,13-14
Inventive step (IS)	Yes: Claims	1-5,9,12
	No: Claims	10-11,13-14
Industrial applicability (IA)	Yes: Claims	1-5,9-14
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following document:
D1: US-A-6 106 545 (EGAN THOMAS D) 22 August 2000 (2000-08-22)
2. [claims 10-11,13-14] The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 10-11 and 13-14 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (the references in parentheses applying to this document):

- a fixing plate (24) (fig. 2) which can be used in an assembly according to claim 1 or in the method according to claim 6, and
- a surgical cable (22) which can be used in an assembly according to claim 1 or in the method according to claim 6.

3. [claims 1,9,12] The document D1 is regarded as being the closest prior art to the subject-matter of claims 1, 9 and 12, and shows (the references in parentheses applying to this document) a bone fixing device comprising a fixing plate (24) (fig. 2) and a surgical cable (22) having a central hole (26) and a ring surrounding said hole.
 - 3.1 The subject-matter of claims 1, 9 and 12 differs from this known bone fixing device in that it comprises a second plate having a central hole and a ring surrounding said hole and in that the cable can be blocked in position by the plates.

The subject-matter of claims 1, 9 and 12 is therefore new (Article 33(2) PCT).

- 3.2 The problem to be solved by the present invention may be regarded as using the plates to block the surgical cable.

The solution to this problem proposed in claims 1, 9 and 12 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

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No prior art document in the surgical field discloses a system using two plates having a central hole in order to block a surgical cable. Therefore, the solution proposed in claims 1, 9 and 12 of the present application is not suggested by the prior art and involves an inventive step.

3.3 **[claims 2-5]** Claims 2-5 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.